

4737. Adulteration and misbranding of tomato pulp. U. S. * * * v. 100 Cases of Tomato Pulp. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 7209. I. S. No. 3534-1. S. No. E-535.)

On February 4, 1916, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 100 cases, each containing four dozen cans, of tomato pulp, remaining unsold in the original unbroken packages at New York, N. Y., alleging that the article had been shipped by the Booth Packing Co., Baltimore, Md., and transported from the State of Maryland into the State of New York, the shipment having been received on or about December 28, 1915, and charging adulteration and misbranding in violation of the Food and Drugs Act. The cases were labeled: "4 Doz. cans 10 oz. each. Size No. 1 Diamond Brand Tomato Pulp for Soup. Distributors D D Mallory and Co. Baltimore Md. Depew New York N. Y."

Adulteration of the article was alleged in the libel for the reason that it consisted in particular [part] of a filthy, decomposed, or putrid vegetable substance, to wit, moldy, decomposed tomatoes.

Misbranding was alleged for the reason that the article was in package form and the true quantity of the contents was not plainly and conspicuously marked on the outside of the packages in terms of weight, measure, or numerical count.

On February 23, 1916, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be destroyed by the United States marshal.

CARL VBROOMAN, *Acting Secretary of Agriculture.*